
DEPARTMENT OF TRANSPORTATION

**Research and Special Programs
Administration**

**49 CFR Parts 107, 171, 172, 173, 175,
177, and 178**

[Docket No. HM-166X; Notice No. 91-3]

RIN 2137-AA44

**Transportation of Hazardous
Materials; Proposed Miscellaneous
Amendments**

AGENCY: Research and Special Programs
Administration (RSPA), DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: RSPA is proposing to make several miscellaneous amendments to the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) pertaining to the transportation of hazardous materials. This action is necessary to update the regulations and to respond to petitions for rulemaking.

DATES: Comments must be received October 7, 1991.

ADDRESSES: Address comments to the Dockets Unit (DHM-30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001. Comments should identify the docket and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Docket Unit is located in room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Diane LaValle, (202) 366-4488, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: This document is primarily designed to reduce regulatory burdens by incorporating changes in the HMR based on either petitions for rulemaking submitted in accordance with 49 CFR 106.31 or agency initiative. These proposed amendments are in keeping with Executive Order 12291 and are designed to update and simplify existing regulations. On December 21, 1990, RSPA published a final rule in the Federal Register (55 FR 52402) under Docket No. HM-181. The final rule, which becomes effective on October 1, 1991, makes significant changes to the HMR with respect to the format of the HMR, and the hazard communication, classification and packaging requirements. The proposals contained in this notice are aligned with the changes adopted under HM-181.

Part 107

In § 107.331, paragraph (d) would be amended by adding the word "(violations)" after the words "prior offenses" to clarify that the words "offense" and "violations" are used interchangeably in the Hazardous Materials Transportation Act (HMTA) and HMR. Neither "prior offense" nor "prior violation" includes an act which merely has been the subject of a letter of warning. Both terms, however, include any violation of the HMTA or HMR found in a compromise, settlement, or other order or action taken with prejudice to respondent by an authorized Departmental official (i.e., a model agency head, a chief counsel, a delegatee of either, or an administrative law judge).

Part 171

In § 171.7, of part 171, the table in paragraph (a)(3) would be amended by updating the AAR Specifications for Tank Cars, Specification M-1002, from the 1988 edition to the 1990 edition. This proposed change is based on a petition for rulemaking (P-1101) from the Association of American Railroads.

In § 171.2, the definition for "solid" would be revised to correct a technical discrepancy related to the testing of materials.

Part 172

In part 172, the § 172.401 Table would be amended by adding "173.304" in column 8C as a packaging section reference in the entries, "Carbon dioxide, refrigerated liquid" and "Nitrous oxide, refrigerated liquid", and by changing the packaging section references in columns 8A and 8B for "Fire extinguisher" from "173.306" to "173.309". Section 172.400(a)(1) would be

revised to include an exception from labeling for dewar flasks containing oxygen, refrigerated liquid (*cryogenic liquid*) conforming to § 173.320(a) when properly marked in accordance with CGA Pamphlet C-7, appendix A. For consistency with requirements contained in § 173.29(d), a new § 172.401(d) would be added to clarify that empty packages not containing hazardous residues may bear hazard warning labels if transported in closed motor vehicles.

Part 173

In § 173.7, paragraph (b) would be revised to except national security shipments of hazardous materials, other than radioactive materials, from requirements of the HMR, if such shipments are escorted by personnel in transport vehicles other than those carrying the hazardous materials and are accompanied by a document certifying that the shipment is for national security. The current exception in § 173.7 addresses only radioactive materials. The change is based, in part, on a petition from the Department of Energy (P-1064).

In § 173.31, paragraph (b)(4) would be added to permit the shipment of a tank car tank, under certain conditions, after expiration of the retest date. In § 173.32, a new paragraph (e)(5) would be added to clarify that a portable tank filled prior to expiration of the retest date may be shipped, under certain conditions, after the retest date. In § 173.34, paragraph (e)(15)(i) would be changed to remove the 35 year age restriction for DOT-3A and 3AA cylinders manufactured after December 31, 1945. This proposed change is based on a petition for rulemaking (P-1105) from Liquid Carbomic Specialty Gas Corporation.

In § 173.62, in the Table of Packing Methods, in paragraph (c), "U9006" would be amended to authorize the transportation of jet perforating guns, charged, by contract motor carriers in addition to private carriers. This proposed change is based on a petition for rulemaking (P-1029) submitted by the Petroleum Equipment Suppliers Association. Interested persons are directed to Docket HM-181 for additional information on explosives. DOT-E 6372 authorizes the transportation of charged oil well casing jet perforating guns, with detonators attached, from the gun assembly site (wireline shop) to the job site. It is proposed to incorporate this provision into the HMR.

In § 173.159, paragraph (4) would be revised to provide for marking "DOT NONSPILLABLE BATTERY" on wet, electric storage batteries which meet

"nospillable" test criteria and to clarify that these batteries are regulated for transport by aircraft and vessel. The marking requirement is based on a petition (P-1097) submitted by the Air Transport Association of America (ATA) which requests that batteries be marked "MEETS U.S. DOT TEST CRITERIA FOR NONSPILLABLE". In § 173.185, paragraph (k) would be added to provide an exception from the HMR for certain DOD shipments of lithium batteries transported for disposal. This request is based on a petition (P-1065) submitted by DOD. DOD's Military Traffic Management Command has provided supporting data from EPA that these batteries are not subject to EPA's hazardous wastes requirements.

In § 173.304, the table in paragraph (a)(2) would be amended and a new paragraph (g) would be added to authorize the use of DOT 4L cylinders for Carbon dioxide, refrigerated liquid and Nitrous oxide, refrigerated liquid. This proposed change is based on petitions (P-1036 from Taylor-Wharton and P-1107 from the Compressed Gas Association, Inc.) and DOT-E 7638, E 8063 and E 8938, which authorize the use of DOT 4L cylinders for these materials. In § 173.306, paragraph (c) would be removed and reserved. The requirements in current § 173.306(c) would be moved to new § 173.309 and expanded to authorize certain DOT specification cylinders to be used as fire extinguishers. This proposed change is based, in part, on a petition (P-0792) submitted by Amerex Corporation and DOT-E 8886. In § 173.314, a new paragraph (g)(3) would be added pertaining to the return of tank cars containing a residual of hydrogen chloride, refrigerated liquid. This proposed change is based on a petition (P-1013) submitted by Dow Chemical U.S.A. In § 173.318, paragraph (g) would be revised to authorize use of the abbreviation "OWTT" for "One-way travel time". This proposed change is based on a petition (P-1072) submitted by Union Carbide and DOT-E 9710, which authorizes the use of this abbreviation. In § 173.423, Table 7 would be amended by correcting a format error which was brought to RSPA's attention by the Nuclear Regulation Commission, i.e., "Other liquids" should be indented the same number of spaces as "Trifluorated water".

Part 175

In part 175, several editorial changes would be made for consistency with changes adopted under Docket No. HM-181. In addition, certain safety initiatives, which were either

recommended by industry or developed by DOT, are proposed. In § 175.10, paragraph (a)(7) is revised for clarity. In paragraphs (a)(12) introductory text, and (a)(12)(ii) and (v), the phrase "aviation security program" would be replaced with the phrase "hazardous materials program". Paragraph (a)(12)(v) is also amended to reflect that some states do not have licensing authority for blasters. Paragraph (a)(12) introductory text would be revised and a new paragraph (a)(12)(vi) would be added to provide for the transportation and routine testing of certain special fireworks manufactured for DOD (based on DOT-E 7646). The § 175.10 requirements in paragraphs (a)(19), addressing the transport of wheelchairs equipped with nonspillable batteries, and (a)(20), for wheelchairs equipped with spillable batteries, would be revised based on a petition (P-1097) from ATA and on RSPA's initiative. Both paragraphs would be reformatted for clarity. The provisions of both paragraphs would be made applicable to battery-powered mobility aids other than wheelchairs, consistent with the International Civil Aviation Organization's (ICAO's) Technical Instructions for the Safe Transport of Dangerous Goods by Air. Provision would be made in paragraph (a)(19) to clarify that a nonspillable battery may be removed from the wheelchair and packaged separately, if necessary (e.g., if the battery were not adequately secured to the wheelchair) and to require that both battery and packaging, if any, be marked "DOT NONSPILLABLE BATTERY". Paragraph (a)(20) would be revised to clarify that a liner may be used to render a packaging leak-tight and impervious to battery fluid, and to delete the requirement that absorbent material "surround" the battery. The term "outside" would be deleted to remove any implication that the packaging is a combination packaging. These changes are intended to facilitate airlines' efforts to implement standardized procedures for routinely handling battery-equipped wheelchairs, while maintaining a high level of safety in the transport of the batteries. Finally, in § 175.10, new paragraph (a)(23) would be added to provide for the transport of a small carbon dioxide cylinder fitted into a life jacket. This latter proposed change is based on a petition (P-1076) submitted by the ATA and requirements contained in the ICAO Technical Instructions.

A new § 175.26 would require the display of certain warning signs or posters at cargo-loading facilities, based on FAA and RSPA initiative. In § 175.78, requirements pertaining to stowage and

segregation of hazardous materials would be revised to clarify that they apply to stowage facilities at airports. In § 175.700, proposed changes would require that an air carrier notify the shipper of an incident involving hazardous materials no later than the close of business the following work day.

Part 177

Section 177.804 would be amended by removing the words "to the extent they apply" to eliminate confusion about the extent to which RSPA is incorporating into the HMR the Federal Motor Carrier Safety Regulations (FMCSR), i.e., 49 CFR Parts 393-397 (excluding §§ 397.3 and 397.9). By fully incorporating the applicable provisions of the FMCSR into the HMR, RSPA also would be giving full preemptive effect under the HMR to those provisions when hazardous materials transportation is involved. Specifically, the preemptive effect of those provisions, when the HMR applies, would be determined under the "substantively the same," "dual compliance," and "obstacle" tests set forth in § 107.202 of the HMR (as amended by a February 28, 1991 final rule (Docket HM-207, 56 FR 8616)).

Part 178

In § 178.251-2, pertaining to DOT 53 and 57 portable tanks, paragraph (e) would be revised to provide for caps or plugs covering discharge openings to be made of non-metallic material compatible with the lading (petitions P-1078 from Bishop, Cook, Purcell and Reynolds and P-1092 from Nalco Chemical Company).

Administrative Notices

A. Regulatory Flexibility Act

The proposals in this notice impact persons who offer for transportation and transport hazardous materials, some of whom are small entities. Based on the minimal impact of these proposals and limited information available concerning size and nature of entities likely to be affected, I certify that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

B. Executive Order 12291 and Administrative Notices

In view of the type of changes, the RSPA has further determined that this Notice (1) is not "major" under Executive Order 12291; (2) is not "significant" under DOT Regulatory Policies and Procedures (44 FR 11034,

February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact would be minimal; and (4) does not require an environmental impact statement under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

C. Executive Order 12612

I have reviewed this regulation in accordance with Executive Order 12612 ("Federalism"). It has no substantial direct effects on the States, on the Federal-State relationship or the distribution of power and responsibilities among levels of government. Thus, this regulation contains no policies that have Federalism implications, as defined in Executive Order 12612, and no Federalism Assessment is necessary.

List of Subjects in 49 CFR

Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

Part 171

Exports, Hazardous materials transportation, Hazardous waste, Reports, Incorporation by Reference, Reporting and recordkeeping requirements.

Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium

Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements

Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

Part 178

Hazardous materials transportation, Packagings and containers, Motor vehicle safety, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 49 CFR Chapter I is amended as follows:

PARTS 171, 172, 173, 175, and 178 (AMENDED)

1. The authority citation for part 107 would continue to read as follows:

Authority: 49 App. U.S.C. 1421(c); 49 App. U.S.C. 1802, 1803, 1806-1811; 49 App. U.S.C. 1653(d), 1655; 49 CFR part 1.

2. The authority citation for part 171 would continue to read as follows:

Authority: 49 App. U.S.C. 1802, 1803, 1804, 1805, 1808; 49 CFR part 1.

3. The authority citation for part 172 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1806; 49 CFR part 1.

4. The authority citation for part 173 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1807, 1808; 49 CFR part 1, unless otherwise noted.

5. The authority citation for part 175 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1807, 1808; 49 CFR part 1.

6. The authority citation for part 177 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805; 49 CFR part 1.

7. The authority citation for part 178 would continue to read as follows:

Authority: 49 App. U.S.C. 1803, 1804, 1805, 1806, 1808; 49 CFR part 1, unless otherwise noted.

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 107.331(d)	To reflect the fact that the words "offenses" and "violations" are used interchangeably in the HMTA and the HMR.	In § 107.331(d) the parenthetical expression "(violations)" would be added after the words "prior offenses" and before the semicolon.
§ 171.7	To reflect the current edition of the AAR standard. (P-1101).	In § 171.7, paragraph (a)(3) table, for the entry "AAR Specification for Tank Cars, Specification M-1002, 1988" the date would be changed to "1990".
§ 171.8	To correct a discrepancy in the definition for "solid". A material having a separation of one gram of liquid is included in the definition of a "liquid".	In § 171.8, the definition for "Solid" would be revised to read as follows: Solid means a material which has a vertical flow of two inches (50 mm) or less within a three-minute period, or a separation of less than one gram (1g) of liquid when determined in accordance with the procedures specified in ASTM D 4359-84, "Standard Test Method for Determining Whether a Material is a Liquid or Solid."
§ 172.101 (Table)	To authorize use of DOT 4L cylinders for carbon dioxide, refrigerated liquid and nitrous oxide, refrigerated liquid.	In the § 172.101 Table, the line entries "Carbon dioxide, refrigerated liquid" and "Nitrous oxide, refrigerated liquid" would be amended by adding "304" in column 8B.
§ 172.101 (Table)	To relocate requirement for fire extinguishers from § 173.306 to § 173.309.	In the § 172.101 Table, the line entry "Fire extinguishers" would be revised by changing columns 8A and 8B from "306" to "309".
§ 172.400a(a)(1)	To exempt from labeling a Dewar flask containing oxygen, refrigerated liquid (cryogenic liquid) when marked in accordance with CGA Pamphlet C-7, appendix A.	In § 172.400a, the introductory text to paragraph (a)(1) would be amended by adding the words "or Dewar flask conforming to § 173.320 of this subchapter" immediately after the word "cylinder".
§ 172.401	To revise paragraph (a) introductory text and add new paragraph (d) to provide that when an empty packaging is labeled and transported in a transport vehicle, the packaging would not be subject to the HMR if it is not visible.	In § 172.401, paragraph (a) introductory text would be revised and paragraph (d) would be added to read as follows: § 172.401 Prohibited labeling. (a) Except as otherwise provided in this section, no person may offer for transportation and no carrier may transport a package bearing a label specified in this subpart unless: (d) The provisions of paragraph (a) of this section do not apply to a packaging bearing a label if that packaging is: (1) Unused or cleaned and purged of all residue; (2) Transported in a transport vehicle or freight container in such a manner that the packaging is not visible during transportation; and (3) Loaded by the shipper and unloaded by the shipper or consignee.
§ 173.7	To provide that national security shipments of hazardous materials under escort not be subject to requirements of the HMR.	In § 173.7, paragraph (b) would be revised to read as follows: § 173.7 U.S. Government material. (a) * * * (b) Shipments of hazardous materials, made by or under the direction or supervision of the U.S. Department of Energy (DOE) or the Department of Defense (DDO), and which are escorted by personnel specifically designated by or under the authority of those agencies, for the purpose of national security, are not subject to the requirements of this subchapter. For transportation by a motor vehicle or a rail car, the escorts must be in a separate transport vehicle from the transport vehicle carrying the hazardous materials that are excepted by this paragraph. A document certifying that the shipment is for the purpose of national security must be in the possession of the person in charge of providing security during transportation.
§ 173.31(b)(4)	To permit shipment of a tank car tank which has been loaded with a hazardous material prior to expiration of the retest date. After emptying, the tank may not be refilled and shipped until it has been retested.	In § 173.31, paragraph (b)(4) would be added to read as follows: § 173.31 Qualification, maintenance, and use of tank cars. (b) * * * (4) A tank car for which the retest has become due may not be filled and offered for transportation until it has been properly tested.
§ 173.32(e)(5)	To clarify that a portable tank, which has been loaded with a hazardous material prior to expiration of the retest date, may be offered for transportation. After emptying, the tank may not be refilled and shipped until it has been properly retested.	In § 173.32, paragraph (e)(5) would be added to read as follows: § 173.32 Qualification, maintenance and use of portable tanks. (e) * * * (5) A portable tank for which the prescribed retest or reinspection under paragraph (e)(1) of this section has become due may not be filled and offered for transportation until the retest or reinspection has been successfully completed.

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.34(e)(15)(i)	To remove the 35 year restriction for retesting DOT-3A or 3AA cylinders every ten years. (P-1105).	In § 173.34, paragraph (e)(15)(i) would be revised to read as follows: § 173.34 <i>Qualification, maintenance and use of cylinders.</i> (e) * * * (15) * * * (i) This requirement does not apply to cylinders manufactured after December 31, 1945.
§ 173.62(c)	To revise packing method "US006" to permit the transport of jet perforating guns with detonators attached and to allow carriage by contract carriers.	In § 173.62(c), the Table of Packing Methods, "US006" would be revised by removing paragraph "a" and revising paragraph "e" by inserting the phrase "or contract" after the word "private". Paragraphs "b" through "f" are redesignated as paragraphs "a" through "e" respectively.
§ 173.159(d)	To add a marking requirement to identify nonspillable wet electric storage batteries.	In § 173.159, paragraphs (d)(1) and (d)(2) would be redesignated as paragraphs (d)(3)(f) and (d)(3)(g) and the remainder of paragraph (d) would be revised to read as follows: § 173.159 <i>Batteries, wet.</i> (d) Except for transportation by aircraft or vessel, a nonspillable wet electric storage battery is excepted from all other requirements of this subchapter under the following conditions: (1) The battery must be protected against short circuits and securely packaged. (2) The battery, outer packaging and overpack, if applicable, must be marked "DOT NONSPILLABLE BATTERY"; and (3) The battery must be capable of withstanding the following two tests, without leakage of battery fluid from the battery:
§ 173.185	To provide an exception from the HMR for the disposal of certain lithium batteries.	In § 173.185, paragraph (k) would be added to read as follows: § 173.185 <i>Lithium batteries and cells.</i> (k) Lithium Sulfur dioxide cells and batteries, for disposal, are not subject to the requirements of this subchapter under the following conditions: (1) When new, each cell contained not more than 2.8 grams of lithium and was electrochemically balanced with a ratio of lithium to sulfur dioxide of 1.0 ± 0.1; (2) Each battery is composed of not more than 10 cells and is appropriately marked to indicate the battery was produced in accordance with current U.S. Army Military Specifications; (3) Each battery is discharged with a discharge device to a remaining average of 0.30 grams of metallic lithium per cell after complete discharge. Such a device may be built into the battery or may be separate and external to the battery. The device must be able to completely discharge the battery in 5 days; and (4) After being activated for discharge, the batteries are held not less than five days before being offered for transportation.
§ 173.304(g)	To authorize DOT 4L cylinders for "Carbon dioxide, refrigerated liquid" and "Nitrous oxide, refrigerated liquid". To add a paragraph (g) containing pressure control valve settings for these materials.	In § 173.304, paragraph (g) would be added to read as follows: § 173.304 <i>Charging of cylinders with liquefied compressed gas.</i> (a) * * * (g) <i>Carbon dioxide, refrigerated liquid or nitrous oxide, refrigerated liquid.</i> The following provisions apply to carbon dioxide, refrigerated liquid and nitrous oxide, refrigerated liquid: (1) DOT 4L cylinders conforming to the provisions of this paragraph are authorized. (2) Each cylinder must be protected with at least one pressure relief valve and at least one frangible disc conforming to §§ 173.34(d) and 173.304(b)(2). The relieving capacity of the pressure relief device system must be equal to or greater than that calculated by the applicable formula in paragraph 5.9 of CGA Pamphlet S-1.1. (3) The temperature and pressure of the gas at the time of loading may not exceed -18°C (0°F) and 2007 kPa(291 psig) for carbon dioxide and -15.6°C (+4°F) and 2007 kPa (291 psig) for nitrous oxide. Maximum time in transit may not exceed 120 hours. The following pressure control valve settings, design service temperatures and filling densities apply:

Pressure Control Valve Setting maximum start-to discharge gauge pressure in kpa (psig)	Maximum permitted filling density (percent by weight)	
	Carbon dioxide, refrigerated liquid	Nitrous oxide, refrigerated liquid
724 kPa (105 psig)	108	104
1172 kPa (170 psig)	105	101
1586 kPa (230 psig)	104	99
2034 kPa (295 psig)	102	97
2483 kPa (360 psig)	100	95
3103 kPa (450 psig)	98	83
3723 kPa (540 psig)	92	87
4309 kPa (625 psig)	86	80
Design service temperature °C (°F)	-196°C (-320°F)	-196°C (-320°F)

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.306.....	To relocate the provisions of paragraph (c) to new § 173.309.	In § 173.306, paragraph (c) would be removed and reserved.
§ 173.309.....	To add § 173.309 containing requirements for fire extinguishers, to provide for fire extinguishers conforming to DOT 3A, 3AA, 4B, 4BW and 4B240ET cylinder specifications, and to allow retest requirements in accordance with § 173.34(e)(8) and (e)(9).	<p>Section 173.309 would be added to read as follows:</p> <p>§ 173.309 Fire extinguishers.</p> <p>(a) Fire extinguishers charged with a limited quantity of compressed gas to not more than 1660 kpa (241 psig) at 21°C (70°F) are excepted from labeling (except when offered for transportation by air) and the specification packaging requirements of this subchapter when shipped under the following conditions. In addition, shipments are not subject to subpart F of part 172 of this subchapter, to part 174 of this subchapter except § 174.24 or to part 177 of this subchapter except § 177.817.</p> <p>(1) Each fire extinguisher must have contents which are not flammable poisonous, or corrosive as defined under this subchapter.</p> <p>(2) Each fire extinguisher must be shipped as an inner packaging.</p> <p>(3) Nonspecification cylinders, are authorized subject to the following conditions:</p> <p>(i) The internal volume of each cylinder may not exceed 18 liters (1,100 cubic inches). For fire extinguishers not exceeding 900 ml (55 cubic inches) capacity, the liquid portion of the gas plus any additional liquid or solid must not completely fill the container at 55°C (130°F). Fire extinguishers exceeding 900 ml (55 cubic inches) capacity may not contain any liquefied compressed gas.</p> <p>(ii) Each fire extinguisher manufactured on and after January 1, 1978, must be designed and fabricated with a burst pressure of not less than six times its charged pressure at 21°C (70°F) when shipped.</p> <p>(iii) Each fire extinguisher must be tested, without evidence of failure or damage, to at least three times its charged pressure at 21°C (70°F) but not less than 825 kpa (120 psig) before initial shipment, and must be marked to indicate the year of the test (within 90 days of the actual date of the original test) and "MEETS DOT REQUIREMENTS." This marking will be considered a certification that the fire extinguisher was manufactured in accordance with the requirements of this section. The words "This extinguisher meets all requirements of 49 CFR 173.306" may be displayed on fire extinguishers manufactured prior to January 1, 1978.</p> <p>(iv) For any subsequent shipment, each fire extinguisher must be in compliance with the retest requirements of the Occupational Safety and Health Administration Regulations of the Department of Labor, 29 CFR 1910.157(e).</p> <p>(4) Specification 2P or 2Q (§§ 178.33 and 178.33a of this subchapter) inner nonrefillable metal packagings are authorized for use as fire extinguishers subject to the following conditions:</p> <p>(i) The liquid portion of the gas plus any additional liquid or solid may not completely fill the packaging at 55°C (130°F);</p> <p>(ii) Pressure in the packaging shall not exceed 1250 kpa (181 psig) at 55°C (130°F). If the pressure exceeds 920 kpa (141 psig) at 55°C (130°F), but does not exceed 1100 kpa (160 psig) at 55°C (130°F), a specification DOT 2P inner metal packaging must be used; if the pressure exceeds 1100 kpa (160 psig) at 55°C (130°F), a specification DOT 2Q inner metal packaging must be used. The metal packaging must be capable of withstanding, without bursting, a pressure of one and one-half times the equilibrium pressure of the contents at 55°C (130°F); and</p> <p>(iii) Each completed inner packaging filled for shipment must have been heated until the pressure in the container is equivalent to the equilibrium pressure of the contents at 55°C (130°F) without evidence of leakage, distortion, or other defect.</p> <p>(b) Specification 3A, 3AA, 4B, 4BW or 4B240ET (§§ 178.50, 178.61 and 178.55 of this subchapter) cylinders are authorized for use as fire extinguishers subject to the following conditions:</p> <p>(1) Cylinders must be used exclusively for ammonium phosphate, sodium bicarbonate, potassium bicarbonate, potassium imido dicarboxamide and bromochlorodifluoromethane or bromotrifluoromethane,</p> <p>(2) cylinders must be charged with a nonflammable, non-toxic, noncorrosive, dry gas, having a dewpoint at or below minus 46.7°C (52°F) at 101 kpa (1 atmosphere) to not more than the service pressure of the cylinder.</p> <p>(3) Cylinders must be protected externally by suitable corrosion-resisting coatings;</p> <p>(4) Cylinders with service pressures not exceeding 2070 kpa (300 psi), and a water weight not over 5.4 kg (12 pounds), are authorized to be retested in accordance § 173.34(e)(8) or Note 2 of § 173.34(e)(9); and</p> <p>(5) Cylinders having a water weight capacity of greater than 5.4 kg (12 pounds) are authorized to be retested in accordance with § 173.34(e)(9).</p>
§ 173.314(g).....	To add a new paragraph (g)(3) to ensure that a tank car containing a residue of hydrogen chloride, refrigerated liquid does not build up pressure sufficient to cause a release of the material through the pressure relief valves.	<p>In § 173.314, paragraph (g)(3) would be added to read as follows:</p> <p>§ 173.314 Requirements for compressed gases in tank car tanks.</p> <p>(g)</p> <p>(3) Tank cars containing hydrogen chloride, refrigerated liquid, must be unloaded so that any residue remaining in the tank, when vaporized, will not actuate the safety relief device at 21°C (70°F) during transportation.</p>

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 173.318(g)	To allow the use of the abbreviation "OWTT" in place of the phrase "One Way Travel Time" to be marked on cargo tanks.	In § 173.318, a sentence is added at the end of the introductory text of paragraph (g), preceding paragraph (g)(1), to read as follows: § 173.318 <i>Cryogenic liquids in cargo tanks.</i> (g) . . . The abbreviation "OWTT" may be used in place of the words "One-way travel-time" in the marking required by this paragraph.
§ 173.423	To correct a format error in § 173.423, Table 7, by indenting "Other liquids" the same number of spaces as "Tritiated water".	In § 173.423, the format of the portion of Table 7 under the caption "Liquids" and the line entry "Other liquids" would be revised to read as follows: § 173.423 <i>Table of activity limits—excepted quantities and articles.</i>

TABLE 7—ACTIVITY LIMITS FOR LIMITED QUANTITIES, INSTRUMENTS, AND ARTICLES

Nature of contents	Instruments and articles		Materials package limits
	Instrument and article limits ¹	Package limits	
Liquids:			
Tritiated water:			
< 0.1 Ci/liter			1000 Curies.
0.1 Ci to 1.0			100 Curies.
> 1.0 Ci/liter			1 Curie.
Other Liquids:	10 ¹ A ₂	10 ¹ A ₂	10 ¹ A ₂

¹ For mixture of radionuclides see § 173.433(b).

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 175.10	To revise paragraphs (a)(7), (a)(19), (a)(20)(i), and (a)(20)(ii) for clarity. To revise paragraphs (a)(12)(ii) and (v) for consistency with FAA's review procedures. To add new paragraphs (a)(12)(vi) and (a)(23) to provide for the transportation and routine testing of certain special fireworks manufactured for DOD in the same manner as such testing is currently authorized under exemption DOT E-7648. To add new paragraph (a)(23) to allow for transportation of one small carbon dioxide cylinder in baggage and provide for consistency between requirements contained in the ICAO Technical Instructions and the HMR.	In § 175.10, paragraphs (a)(7), (a)(19), (a)(20), (a)(12) introductory text, (a)(12)(v) and the penultimate sentence of paragraph (a)(12)(ii) would be revised, and paragraphs (a)(12)(vi) and (a)(23) would be added to read as follows: § 175.10 <i>Exceptions.</i> (a) . . . (7) Oxygen, or any hazardous material used for the generation of oxygen, for medical use by a passenger, which is furnished and maintained aboard the aircraft by the aircraft operator in accordance with 14 CFR 121.574 or 135.81. (12) Hazardous materials which are loaded and carried on or in cargo aircraft only and which are to be dispensed or expended during flight for weather control, forest preservation and protection, flood control, or avalanche control purposes or routine quality control testing of special fireworks manufactured for the Department of Defense when the following requirements are met: (i) . . . The manual must be approved by the FAA Civil Aviation Security Office responsible for reviewing the operator's hazardous materials program or the FAA Civil Aviation Security Office in the region where the operator is located. . . . (v) When dynamite and blasting caps are carried for avalanche control flights, the explosive must be handled by, and at all times be under the control of, a qualified blaster. When required by state or local authority, the blaster must be licensed and the authority must be identified in writing to the FAA Civil Aviation Security Office responsible for reviewing the operator's hazardous materials program or the FAA Civil Aviation Security Office in the region where the operator is located. (vi) When special fireworks aerial illuminating flares, manufactured specifically for the DOD, are carried for in-flight routine quality control testing, the fireworks must be handled by, and at all times be under the control of, a qualified person who has been trained in accordance with a program approved by the local FAA Civil Aviation Security Field Office. The aircraft must be specially modified to conduct the testing operation and must be specifically approved for such operations by the local FAA Civil Aviation Security Field Office before the flight. (19) A wheelchair or other battery-powered mobility aid equipped with a nonspillable battery, as checked baggage, provided that— (i) The battery meets the provisions of § 173.159(d) for nonspillable batteries and is marked "DOT NONSPILLABLE BATTERY"; (ii) Visual inspection of the battery reveals no obvious defects; (iii) The battery is disconnected and terminals are insulated to prevent short circuits; (iv) The battery is securely attached to the wheelchair or mobility aid, or is removed and placed in a strong, rigid packaging; and (v) Any packaging or housing which encloses the battery is marked "DOT NONSPILLABLE BATTERY".

Regulation affected	Reason(s) for proposed change	Proposed amendment
		<p>(20) A wheelchair or other battery-powered mobility aid equipped with a spillable battery, as checked baggage, provided that—</p> <ul style="list-style-type: none"> (i) Visual inspection of the battery reveals no obvious defects; (ii) The battery is disconnected and terminals are insulated to prevent short circuits; (iii) The pilot-in-command is advised, either orally or in writing, prior to departure as to the location of the battery aboard the aircraft; and (iv) The wheelchair or mobility aid is loaded, stowed, secured and unloaded in an upright position or the battery is removed, the wheelchair or mobility aid is carried as checked baggage without further restriction, and the removed battery is carried in a strong, rigid packaging under the following conditions: <ul style="list-style-type: none"> (A) The packaging must be leak-tight and impervious to battery fluid. An inner liner may be used to satisfy this requirement if the liner completely surrounds the battery with absorbent material and has a leakproof closure; (B) The battery must be protected against short circuits, secured upright in the packaging, and packaged with enough compatible absorbent material to completely absorb liquid contents in the event of rupture of the battery; and (C) The packaging must be labeled with a CORROSIVE label, marked to indicate proper orientation, and marked with the words "Battery, wet, with wheelchair." <p>(23) With approval of the aircraft operator, one small carbon dioxide cylinder fitted into a self-inflating life-jacket plus one spare cartridge may be carried by a passenger or crew member in checked or carry-on baggage.</p>
§ 175.25	To require that airport operators display warning signs at prominent locations within the airport for passengers carrying undeclared hazardous materials aboard the aircraft.	<p>In § 175.25, paragraph (a) would be revised to read as follows:</p> <p>§ 175.25 Informing passengers about hazardous materials restrictions.</p> <p>(a) Each aircraft operator who engages in for-hire transportation of passengers shall display notices to passengers concerning the requirements for and penalties associated with the carriage of hazardous materials aboard aircraft. Each notice must be legible, be prominently displayed in visible airport locations and be seen by passengers where the aircraft operator issues tickets, checks baggage, and maintains aircraft boarding areas.</p>
§ 175.26 (new)	To require airport operators to display, at certain locations within airports, warning signs alerting persons of requirements and penalties associated with offering undeclared hazardous materials for transportation aboard an aircraft.	<p>A new § 175.26 would be added to read as follows:</p> <p>§ 175.26 Notification to cargo customers of the hazardous materials requirements.</p> <p>(a) Each operator who engages in the acceptance and transport of cargo by aircraft shall display notices to persons offering cargo concerning the requirements and penalties associated with the carriage of hazardous materials aboard aircraft. Such notices shall be prominently displayed in each location where the operator conducts cargo operations and accepts cargo for transport by aircraft. Each notice must contain the following information:</p> <p>Federal law forbids the offering and acceptance of cargo containing hazardous materials (dangerous goods) for transportation by aircraft, except as provided in the Federal Hazardous Materials Regulations (49 CFR parts 171-180).</p> <p>A violation can result in civil penalties of up to \$25,000 and criminal penalties of up to \$500,000 and 5-years imprisonment (49 U.S.C. 1809).</p> <p>Hazardous materials (dangerous goods) include explosives, compressed gases, flammable liquids and solids, oxidizers, poisons, corrosives and radioactive materials.</p> <p>For transportation as cargo, hazardous materials must conform to applicable national or international regulations and be—</p> <ul style="list-style-type: none"> Properly classified, authorized and within prescribed quantity limitations for transportation by aircraft. Packaged in authorized packages which are properly marked and labeled, authorized and in condition for transportation by aircraft. Accompanied by a signed shipping paper describing the contents and certifying conformance to the applicable regulations. <p>(b) The information contained in paragraph (a) of this section must be printed:</p> <ul style="list-style-type: none"> (1) In legible English; (2) In lettering of at least 9.5 mm (3/8 inch) in height. (3) On a background of contrasting color. <p>(c) Size and color of the notice are optional. Additional information, examples, or illustrations, if not inconsistent with required information, may be included.</p> <p>The introductory text preceding Table 1 in paragraph (a) of § 175.78 would be revised to read as follows:</p> <p>§ 175.78 Stowage compatibility of cargo.</p> <p>(a) For stowage on an aircraft, in a cargo facility, or at any other area at an airport designated for the stowage of hazardous materials, packages containing hazardous materials which might react dangerously with one another may not be placed next to each other in a position that would allow a dangerous interaction in the event of leakage.</p>
§ 175.78(a)	To clarify that storage segregation requirements apply in storage facilities at airports.	<p>The introductory text preceding Table 1 in paragraph (a) of § 175.78 would be revised to read as follows:</p> <p>§ 175.78 Stowage compatibility of cargo.</p> <p>(a) For stowage on an aircraft, in a cargo facility, or at any other area at an airport designated for the stowage of hazardous materials, packages containing hazardous materials which might react dangerously with one another may not be placed next to each other in a position that would allow a dangerous interaction in the event of leakage.</p>
§ 175.700(b)	To specify a time frame within which an air carrier must notify the shipper of an incident involving a hazardous material.	<p>In § 175.700, two sentences would be added between the first and second sentence of paragraph (b) to read as follows:</p> <p>§ 175.700 Special limitations and requirements for radioactive materials.</p> <p>(a)</p> <p>(b) In addition to the reporting requirements of § 175.45, the carrier must notify the shipper at the earliest practicable moment following any incident in which there has been breakage, spillage or suspected radioactive contamination involving a radioactive material shipment. In no instance may the notification be later than the close of business of the following workday. . . .</p>

Regulation affected	Reason(s) for proposed change	Proposed amendment
§ 177.804	To remove the qualifying words "to the extent those rules apply" to fully incorporate the provisions of the FMCSR.	Section 177.804 would be revised to read as follows: § 177.804 <i>Compliance with the Federal Motor Carrier Safety Regulations.</i> Motor carriers and other persons subject to this part shall comply with 49 CFR parts 390 through 397 (excluding §§ 397.3 and 397.9).
§ 178.251-2(a)	To provide for a discharge cap or plug made of nonmetallic material compatible with the intended lading, on DOT 56 and 57 portable tanks.	In § 178.251-2, paragraph (a) would be revised to read as follows: § 178.251-2 <i>Materials of construction.</i> (a) Except for gaskets, pressure relief devices, valve seats, liners, linings, and caps or plugs used as secondary closing devices over discharge openings, materials of construction must be metal.

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Alan I. Roberts,

*Associate Administrator for Hazardous
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